

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapter 27.68 of the Lincoln Municipal Code relating to
2 Personal Wireless Facilities to by amending Section 27.68.020 to delete the definition of “modification”;
3 amending Section 27.68.030 to delete the requirement for an administrative permit to co-locate on existing
4 facilities; amending Section 27.68.110 to clarify how the fall zone is measured; and repealing Sections
5 27.68.020, 27.68.030, and 27.68.110 of the Lincoln Municipal Code as hitherto existing.

6 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

7 Section 1. That Section 27.68.020 of the Lincoln Municipal Code be amended to read
8 as follows:

9 **27.68.020 Definitions.**

10 For the purpose of this chapter, the following terms shall have the meaning ascribed to them below:

11 **Abandonment**, in the case of a non co-located facility, shall mean: (a) failure to start operations
12 within 90 days of completion of the structure, or (b) to cease operation for a period of 90 or more
13 consecutive days. In the case of a co-located facility, abandonment shall mean: (a) failure to start
14 operations within 180 days of completion of the structure, or (b) to cease operation for a period of 180
15 or more consecutive days. In the event that factors beyond a provider’s control postpone the start of or
16 cause the temporary cessation of operations of a co-located or non-colocated facility, the time limitations
17 specified herein shall be extended for such period of delay.

18 **Administrative permit** shall mean a process and approval by the Planning Director as described
19 in this chapter.

20 **Antenna** shall mean any exterior apparatus designed for telephonic, radio, data, Internet, or video
21 communications through the sending and/or receiving of electromagnetic waves, and includes equipment
22 attached to a tower or building for the purpose of providing personal wireless services, including unlicensed
23 wireless telecommunications services, wireless telecommunications services utilizing frequencies authorized
24 by the Federal Communications Commission for “cellular”, “enhanced specialized mobile radio”,

1 “specialized mobile radio” and “personal communications services”, telecommunications services, and its
2 attendant base station.

3 **Antenna support structure** shall mean any pole, telescoping mast, tower, tripod, or other
4 structure which supports a device used in the transmitting or receiving of radio frequency signals.

5 **Array** shall mean a set of antennas for one carrier or service that are placed on a structure at a
6 given height and spaced so as to avoid interference.

7 **Camouflage** describes a personal wireless service facility that is disguised, hidden, or integrated
8 with an existing structure or a personal wireless service facility that is placed within an existing or proposed
9 structure so as to be effectively hidden from view.

10 **Co-location** shall mean the location of antenna or an array of antennas on a personal wireless
11 facility or antenna support structure by more than one personal wireless service provider.

12 **Design** shall mean the appearance of personal wireless service facilities, including such features
13 as their materials, colors, texture, scale, and shape.

14 **EIA** shall mean the Electronics Industry Association.

15 **Equipment enclosure** shall mean a structure, shelter, cabinet, or vault used to house and protect
16 the electronic equipment necessary for processing wireless communication signals and associated
17 equipment. Associated equipment may include air conditioning, backup power supplies and emergency
18 generators.

19 **FAA** shall mean the Federal Aviation Administration.

20 **FCC** shall mean the Federal Communications Commission.

21 **Fall zone** shall mean the area on the ground within a prescribed radius from the base of a personal
22 wireless service facility within which there is a potential hazard from falling debris or collapsing material.

23 **Governing authority** shall mean the City Council of the City of Lincoln.

24 **Height** shall mean the vertical distance above grade to the highest point of the antenna support
25 structure, including the lightning rod and antenna.

26 ~~**Modification** shall mean the changing of any portion of a personal wireless service facility from~~
27 ~~its description in a previously approved permit. Examples include, but are not limited to, changes in design,~~
28 ~~height, number or location of antennas.~~

1 **Mount** shall mean the structure or surface upon which personal wireless service facilities are
2 mounted. There are three types of mounts: (i) Building mounted – a personal wireless service facility
3 affixed to the roof or side of a building; (ii) Ground mounted – a personal wireless service facility fixed to
4 the ground such as a tower; and (iii) Structure mounted – a personal wireless service facility fixed to a
5 structure other than a building, such as light standards, utility poles, and bridges.

6 **Personal wireless service, personal wireless service facilities, personal wireless facilities**
7 and **facilities** used in this chapter shall be defined in the same manner as in Title 47, United States Code,
8 Section 332 (c)(7)(C), as they may be amended now or in the future and includes facilities for the
9 transmission and reception of radio or microwave signals used for communication, cellular phone, personal
10 communications services, enhanced specialized mobile radio, and any other wireless services licensed by
11 the FCC and unlicensed wireless services.

12 **Provider** shall mean every corporation, company, association, joint stock company, firm,
13 partnership, limited liability company, other entity and individual which provides personal wireless service
14 over personal wireless service facilities.

15 **Screening** shall mean materials which effectively hide personal wireless facilities from view, or
16 landscaping in accordance with the requirements of the “Design Standards for Zoning.”

17 **Security barrier** shall mean a wall, fence, or berm that has the purpose of sealing a personal
18 wireless service facility from unauthorized entry or trespass.

19 **Site** shall mean a tract or parcel of land that contains personal wireless service facilities including
20 any antenna, support structure, building, accessory buildings, and parking and may include other uses
21 associated with and ancillary to personal wireless services.

22 **Special permit** shall mean a process and approval as currently described in Chapter 27.63 of
23 the Zoning Ordinance, or as otherwise set forth in City ordinances or regulations.

24 **Tower** shall mean any structure that is designed, constructed or used for the primary purpose of
25 supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole
26 towers. The term encompasses personal wireless service facilities including microwave towers, common-
27 carrier towers, cellular telephone towers or personal communications services towers, alternative tower
28 structures, and the like.

1 **Unlicensed wireless services** shall mean commercial mobile services that operate on public
2 frequencies and do not need a FCC license.

3 Section 2. That Section 27.68.030 of the Lincoln Municipal Code be amended to read
4 as follows:

5 **27.68.030 Permits Required.**

6 (a) No person shall locate an antenna or tower for personal wireless services or alter an
7 existing personal wireless services facility upon any lot or parcel except as provided in this chapter.

8 (b) Maintenance or repair of a personal wireless service facility and related equipment,
9 excluding structural work or changes in height, dimensions ~~or number of antenna~~, towers, or buildings, is
10 excluded from the requirement to obtain an administrative or special permit. However, building permits
11 may still be required.

12 (c) Installation of personal wireless service facilities requires either an administrative permit
13 issued by the Planning Director or approval of a special permit by the Planning Commission, except co-
14 location on existing wireless facilities previously authorized by either an administrative permit or special
15 permit.

16 (1) Administrative Permit: In any zoning district, the Planning Director may issue an
17 administrative permit approving an application to replace an existing tower or to co-locate additional
18 antennas on a camouflaged facility or rooftop facility, or facility subject to an existing special permit, if the
19 application does not exceed the permitted height in the district or the height as allowed by special permit,
20 and will have minimal adverse effect on the surrounding property, entryway corridors to the City, Capitol
21 Environs District, Capitol View Corridors as described in Section 27.56.017, landmarks or landmark
22 districts designated in accordance with Chapter 27.57, or properties listed or eligible to be listed on the
23 National Register of Historic Places.

24 Within 45 days of receiving a complete application, the Planning Director shall act on the
25 request for an administrative permit, or shall refer the application to the Historic Preservation Commission,
26 Nebraska Capitol Environs Commission, and/or Planning Commission for public hearing as may required
27 under Chapter 27.56, Chapter 27.57, or Chapter 27.63 of the Lincoln Municipal Code, or the other
28 requirements of this Code.

1 If a request for an administrative permit is not acted upon within 45 days, or is denied, or
2 the conditions imposed thereon are unacceptable to the applicant, then the applicant may, by written notice
3 to the Planning Director, convert the request for an administrative permit to an application for a special
4 permit. Moreover, an applicant may, in lieu of and without first seeking an administrative permit hereunder,
5 request a special permit for its proposed facility.

6 (2) Special Permit: All towers and additions to existing facilities not issued or eligible
7 for an administrative permit and all requests for a special permit shall be reviewed and evaluated, according
8 to the procedure established in Chapter 27.63 of the Lincoln Municipal Code. In the event that the
9 proposed special permit is denied by the Planning Commission, no new request shall be made for the same
10 or substantially similar administrative or special permit within a period of three months after denial thereof.

11 Any decision to deny a special permit under this chapter shall be made in writing and shall
12 state the specific reasons for the denial. Any denial by the Planning Commission may be appealed to the
13 City Council. Any denial by the City Council shall be deemed a final administrative decision, subject to
14 judicial review and appeal.

15 Section 3. That Section 27.68.110 of the Lincoln Municipal Code be amended to read
16 as follows:

17 **27.68.110 Design Criteria for Personal Wireless Service Facilities.**

18 (a) Equipment enclosures used primarily for personal wireless service facilities: Ground level
19 equipment, buildings, and the tower base shall be screened from public view. The standards for the
20 equipment buildings are as follows:

21 (1) The maximum floor area is 450 square feet and the maximum height is twelve feet.
22 The Planning Commission may increase the maximum area to accommodate co-location.

23 (2) Ground level buildings shall be screened from view by landscape plantings, fencing,
24 or other appropriate means, as specified herein or in the Design Standards for Zoning.

25 (3) Equipment buildings mounted on a roof shall have a color, and texture similar to
26 the exterior building walls.

27 (4) Equipment buildings which are located in residential zones shall be designed so as
28 to conform in appearance with residential structures.

1 (5) Equipment buildings, antenna, and related equipment shall occupy no more than
2 twenty-five percent (25%) of the total roof area of a building, which may vary in the City's sole discretion
3 if co-location and an adequate penthouse type structure are used.

4 (6) All base equipment and structures shall be located no closer to the property line
5 than the minimum setback for the zone in which it is located.

6 (b) Security Fencing: A well-constructed fence not less than six feet in height from the finished
7 grade shall be provided around each tower and equipment enclosure. Access to the tower shall be through
8 a locked gate. Screening shall be in conformance with design standards.

9 (c) Color\Finish\Lights: The tower shall have a galvanized finish. It shall not be painted in
10 alternate bands of distinctive orange and white colors or equipped with lights unless specifically required
11 for safety reasons by a governmental agency having jurisdiction thereof. If so required, such lights shall not
12 exceed the necessary minimum standards therefor. The color, finish and lighting of the facility shall be
13 specified at the time of application review. No signals, lights, or signs shall be permitted on towers unless
14 required by the FCC or the FAA. Options on lighting shall be indicated on the application.

15 (d) Antenna Accommodations. In order to reduce the number of antenna support structures
16 needed in the City in the future, any new proposed support structure shall be designed to accommodate
17 antenna for at least one additional provider. Area shall be reserved for other providers' equipment near
18 the base of the applicant's tower, unless co-location is shown to be infeasible. The site plan for towers in
19 excess of 100 feet in height must propose space for two comparable providers, while the site plan for
20 towers of 100 feet or less in height must propose space for one comparable provider, unless co-location
21 is shown to be infeasible.

22 (e) Antenna Criteria: Antenna on or above a structure shall be subject to the following:

23 (1) The proposal shall demonstrate that the antenna and support structure are safe and
24 the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris.
25 All support structures shall be fitted with anti-climbing devices as required in Section 27.68.090(b)(3).

26 (2) Antenna attached to the wall of an existing building shall be mounted in a
27 configuration as flush to the wall as technically possible and should not project above the wall on which it
28 is attached, unless adequately screened.

1 (3) The antenna shall be architecturally compatible with the building and /or wall on
2 which it is mounted, and designed and located so as to minimize any adverse aesthetic impact. The antenna
3 shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the
4 building and wall on which it is mounted.

5 (4) The antenna may be attached to an existing conforming mechanical equipment
6 enclosure which projects above the roof of the building, but may not project any higher than that allowed
7 in the applicable zoning district.

8 (5) If an accessory equipment shelter is present, it must blend with the surrounding
9 buildings in architectural character and color.

10 (6) Roof mounted antenna and related base stations shall be completely screened from
11 view by materials that are consistent and compatible with the design, color, and materials of the building.

12 (7) Rooftop mounts and related base stations shall be screened and integrated with the
13 design of the building.

14 (8) Antenna attached to the roof of a building, an existing tower, a water tank, or a
15 similar structure must be either:

16 (i) Omnidirectional or whip antenna no more than seven inches in diameter;
17 or

18 (ii) Panel antenna no more than two feet wide and eight feet long.

19 (9) Antenna, antenna arrays, and support structures shall not extend more than the
20 permitted height in the applicable zoning district. The antenna, antenna array, and their support structure
21 shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its
22 support structure shall be designed to withstand a wind force of 100 miles per hour without the use of
23 supporting guy wires. The antenna, antenna array, and their support structure shall be a color that blends
24 with the structure on which they are mounted.

25 (f) Free-standing roof-top antenna support structures: The roof-top structure must be
26 architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures,
27 vegetation, and/or uses. Such facilities will be considered architecturally and visually compatible if they are
28 camouflaged to disguise the facility.

1 Site location and development shall preserve the pre-existing character of the site as much
2 as possible. Existing vegetation should be preserved or improved, and disturbance of the existing
3 topography of the site should be minimized, unless such disturbance would result in less visual impact of
4 the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the
5 City, in the City's sole discretion.

6 (g) Fall Zone. Towers and other camouflaged support structures shall be set back a distance
7 no less than one half than the height of the structure from property lines. The Planning Commission may
8 grant a reduction in the required fall zone when it finds that such reduction will not adversely impact
9 adjacent properties, and is consistent with the intent of this title to promote the public health, safety and
10 welfare. However in no instance shall the setback be less than that required by the underlying zoning
11 district.

12 Section 4. That Sections 27.68.020, 27.68.030, and 27.68.110 of the Lincoln Municipal
13 Code as hitherto existing be and the same are hereby repealed.

14 Section 5. That this ordinance shall take effect and be in force from and after its passage
15 and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

